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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,233	01/12/2007	Peter Mueller	1401A.006 (CI0133/A-US)	7089
25215	7590	06/23/2009		EXAMINER
DOBRUSIN & THENNISCH PC				NGUYEN, PHONG H
29 W LAWRENCE ST			ART UNIT	PAPER NUMBER
SUITE 210				3724
PONTIAC, MI 48342				
			MAIL DATE	DELIVERY MODE
			06/23/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,233	<b>Applicant(s)</b> MUELLER ET AL.
	<b>Examiner</b> PHONG H. NGUYEN	<b>Art Unit</b> 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 05 June 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 24-46 is/are pending in the application.

4a) Of the above claim(s) 25,28,30 and 36-46 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 24,26,27,29 and 31-35 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12 January 2007 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 06/13/2008&04/14/2006

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of claims 24, 26, 27, 29 and 31-35 in the reply filed on 06/05/2009 is acknowledged. Since the Applicant does not provide any argument why the restriction is not proper, the Examiner does not have any comment in this section.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 24, 26, 27 and 31-35 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/59689.

Regarding claims 24 and 26, WO 00/59689 teaches a method for simultaneously slicing at least two food product blocks 1 fed in parallel to a blade 11, in which

the food product blocks 1 are each inserted into a feed passage 21

optionally brought into contact with a limit stop 22,

conveyed towards the blade 11 and sliced, and

the ends of the food product blocks remote from the blade are each brought into contact with a means 36,

characterized in that contact between the means 36 and the food product block 1 occurs only during slicing of the respective food product block 1.

See Figs. 1, 3 and 5.

Regarding claim 27, see Fig. 1.

Regarding claim 31, means 36 being removed from the feed passage (going back to element 33) is best seen in Fig. 1.

Regarding claim 32, it is inherent that when the end of the food block reaches the blade, the connection between the food block and means 36 is broken.

Regarding claim 33, motor 37 for driving means 36 is best seen in Fig. 1.

Regarding claim 34, a conveying means 41 is best seen in Fig. 2.

Regarding claim 35, see Fig. 1.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/59689 in view of FR 2 677 573.

WO 00/59689 teaches the invention substantially as claimed except for a locking device for fastening the food product block to the means 36.

FR 2 677 573 teaches a locking device 22 for fastening the food product block to a means. See Fig. 1.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide a locking device as taught by FR 2 677 573 to the means 36 for fastening the food product block to the means.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHONG H. NGUYEN whose telephone number is (571)272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Phong H Nguyen/  
Examiner, Art Unit 3724  
June 22, 2009